

*Brian*IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Peter KINSLER

SERIAL NO.: 10/553,450

EXAMINER: Gail Kaplan Verbitsky

DATE FILED: 14th September 2006

ART UNIT: 2855

FOR: THERMOMETER

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs,

AMENDMENT

In response to the Office Action dated 25th February 2009, kindly enter the following Remarks.

REMARKS

Due to budgetary reasons I have decided to continue prosecution of this case myself. I therefore enclose form PTO/SB/81 revoking my power of attorney to Klauber & Jackson. I would be grateful if you could correspond with me from this point forward in respect of this matter.

I have read and carefully studied the Office Action dated 25th February 2009 and present the following Remarks in response.

35 USC §103

In examining this invention we must of course look at the prior art from the perspective of a relevant skilled person without knowledge of the present invention – any other way would involve an impermissible hind-sight analysis of obviousness over the prior art. We must also interpret terms used in the description in the way a relevant skilled person would read these terms given their use in the description.

How would the skilled person in the wine field interpret the term “wine bottle” in the claim?

First, who is the skilled person? The field of wine bottle thermometers is very mature and established given the decades people have been working on this problem and the long-standing knowledge of wine connoisseurs that wine temperature is critical to its enjoyment (see the background to the invention of the application). Therefore the relevant skilled person is a manufacturer of wine thermometers.